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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

DARWIN BAER,

Plaintiff,

v.

FISKARS BRANDS, INC., a foreign
corporation dba GERBER LEGENDARY
BLADES,

Defendant.

COMPLAINT 11-6345-TC
(Personal Injury; Strict Product Liability;
Negligence)

JURY TRIAL DEMANDED

1.

Jurisdiction is based on diversity of citizenship. 28 U.S.C. §1332. Plaintiff Darwin Baer is a citizen of the State of Oregon. Defendant Fiskars Brands, Inc. is a foreign corporation with its principal place of business in Wisconsin. The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

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OK 1600006970

2.

At all times material herein, Defendant Fiskars Brands, Inc. was a foreign corporation engaged in the business of designing, manufacturing, marketing, distributing, and selling of knives, including the Gerber Gator Machete. As designed, manufactured and sold, the Gerber Gator Machete has a 25 ½ inch blade, one edge of which is honed for chopping and one edge of which is serrated for sawing. There is no hand guard to prevent the user's hand from sliding forward onto the blade if the blade sticks when using the machete as a saw.

3.

Plaintiff Darwin Baer purchased a Gerber Gator Machete in December 2009. On January 10, 2010, he was using it to clear brush and saplings in Lane County, Oregon, when the serrated side of the blade stuck in wood he was sawing and his hand slid forward onto the unguarded blade, causing serious laceration injury to his hand.

FIRST CLAIM FOR RELIEF
(Strict Product Liability)

4.

At all times material herein the Gerber Gator Machete was in substantially the same condition as when sold by Defendant.

5.

The machete is defective and unreasonably dangerous to users in one or more of the following ways:

(a) There is no hand guard to prevent the user's hand from sliding forward onto the blade if the blade sticks when using the machete as a saw; and

(b) There is no warning to users that the serrated side of the blade can stick in wood when using the machete as a saw, causing the user's hand to slide forward onto the unguarded blade.

6.

The defective and unreasonably dangerous condition of the machete was a substantial factor in causing Plaintiff Darwin Baer to suffer serious permanent injury to his left, dominant hand, including severe laceration of his index finger, with near complete laceration to the digital nerve, and complete lacerations of the digital and flexor tendons. The injuries have caused and will continue to cause Darwin Baer pain, disability, and disfigurement, and have limited his ability to engage in normal activities of daily life for which Plaintiff Darwin Baer seeks noneconomic damages in an amount not to exceed \$200,000.

7.

As a result of the described injuries, Plaintiff Darwin Baer has required and may require in the future the services of hospitals, physicians, surgeons, radiologists, nurses, technicians, therapists, and medications. Plaintiffs past and future medical expenses total approximately \$40,000. A more specific amount will be proven at trial.

8.

As a result of the described injuries and resulting disability, Plaintiff Darwin Baer has sustained lost wages and an impairment of his future earning capacity totaling approximately \$100,000. A more specific amount will be proven at trial.

SECOND CLAIM FOR RELIEF
(Negligence)

9.

Plaintiff realleges Paragraphs 1-3 and 7-8.

10.

At all times material herein, Defendant Fiskars Brands, Inc. was negligent in one or more of the following particulars:

(a) In designing, manufacturing and selling the Gerber Gator Machete without a hand guard to prevent a user's hand from sliding forward onto the blade if the blade sticks when using the machete as a saw; and

(b) In failing to warn users of the machete that the serrated side of the blade can stick in wood when using the machete as a saw, causing the user's hand to slide forward onto the unguarded blade.

11.

Defendant knew or should have known that its negligence caused a foreseeable and unreasonable risk of harm to users of the Gerber Gator Machette.

12.

The negligence of Defendant as alleged was a substantial factor in causing Plaintiff Darwin Baer to suffer serious permanent injury to his left, dominant hand, including severe laceration of his index finger, with near complete laceration to the digital nerve, and complete lacerations of the digital and flexor tendons. The injuries have caused and will continue to cause Darwin Baer pain, disability, and disfigurement, and have limited his ability to engage in normal activities of daily life. Plaintiff Darwin Baer seeks noneconomic damages in an amount not to exceed \$200,000.

* * * * *

WHEREFORE, Plaintiff Darwin Baer requests judgment against Defendant as follows:

- (1) For economic damages in an amount of \$140,000;
- (2) For non-economic damages in an amount of \$200,000; and
- (3) For his costs and disbursements incurred herein.

DATED: November 2, 2011.

JOHNSON, JOHNSON, LARSON & SCHALLER, P.C.

By: 

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Of Attorneys for Plaintiff